

### **Remarks**

Claims 21-23 and 26-27 have been objected to because of the term “operable to” in claims 21, 22, and 35. Claims 21, 22, and 35 have been amended accordingly. Withdrawal of this objection is respectfully requested.

Claims 1, 2, and 6-8 have been provisionally rejected on the ground of nonstatutory obviousness-type double patenting over claims 12 and 30 of copending U.S. patent application 10/677,055 (“Stephens ‘055”), in view of U.S. published patent application 2003/0169769 (“Ho”).

Claims 9 and 19 have been provisionally rejected on the ground of nonstatutory obviousness-type double patenting over claim 12 of Stephens ‘055 in view of Ho and U.S. published patent application 2005/0073960 (“Oura”).

Claims 10, 15, 17-18, 20-22, and 26-27 have been provisionally rejected on the ground of nonstatutory obviousness-type double patenting over claims 12 and 30 of Stephens ‘055 in view of Ho and U.S. patent 5,706,428 (“Boer”).

Although applicants strongly disagree with these rejections for reasons given in the amendment filed November 8, 2007, in the interest of efficient prosecution a terminal disclaimer in compliance with 37 CFR 1.321 is filed with this response to overcome these rejections. Withdrawal of the nonstatutory obviousness-type double patenting rejections is respectfully requested.

Claims 1-2, 6-8, 30, 34, 36, and 37 have been rejected under 35 USC 102(e) as being anticipated by Ho.

Claim 9 has been rejected under 35 USC 103(a) as being unpatentable over Ho in view of Oura.

Claim 10 has been rejected under 35 USC 103(a) as being unpatentable over Ho in view of Boer.

Claims 11, 15, 17-18, 20-22, 26-27, 41, 46, and 50 have been rejected under 35 USC 103(a) as being unpatentable over Boer in view of Ho.

Claim 19 has been rejected under 35 USC 103(a) as being unpatentable over Ho in view of Oura.

Claims 40 and 45 have been rejected under 35 USC 103(a) as being unpatentable over Ho in view of U.S. patent 6,694,134 (“Lu”).

Applicants respectfully traverse these rejections because the cited references do not disclose or suggest every limitation of any of these claims, as the following analysis shows.

Independent claims 1, 11, 21, and 46 each recite the absence of an IFS preceding a second PDU that has a preamble – in other words, the preamble of the second PDU does not follow an IFS. Claims 30 and 40 are worded in terms of a symbol boundary instead of an IFS, but have the same effect, since starting the next PDU at the beginning of the next symbol boundary does not leave time for an IFS between PDUs. In addressing these independent claims, the rejection cited Ho as teaching this limitation, referring to Figs. 2, 4, 6, and paragraphs 8-10, 38-42. However, a careful examination of Ho, and in particular those parts of Ho, does not show a preamble in a second PDU without a preceding IFS. Figs. 2 and 4a,b,c show an IFS preceding the second preamble in every instance. Fig. 6 does not show any preambles at all. Ho is well aware of preambles, and shows them in every instance in which one occurs within the interior of the illustrated sequence (see Figs. 2, 4a-c). Ho does not show preambles within the interior of Figs. 6, 8, and 11, and therefore did not intend for preambles to be placed before each PDU (Ho does not use the term PDU in these descriptions, but describes his interior elements as ‘subbodies’).

The rejection combines the whole of Figs. 2 and 4a-c with the whole of Figs. 6, 8, and 11, as if they were interchangeable. However, Figs. 2 and 4a-c each show two frames (a data frame and an ack frame) with a preamble at the beginning of each and an intervening IFS, while Figs. 6, 8, and 11 each show the contents of a single frame (see the first sentence of paragraphs 0041, 0049, and the second sentence of paragraph 0055, which refer to “a” frame). Thus Figs. 6, 8, 11 might be applied to the inner contents of either the data frame or the ack frame of Figs. 2, 4a-c, but not to the combination of both frames or to the intervening times between them. Combining them in this manner would be an improper aggregation of dissimilar elements, with no commonality to tie the features together.

Further, each of independent claims 1, 11, 21, 30, 40, and 46 recites that the claimed operations all take place within a single device. This limitation was already in claims 21, 30, 40, and 46 (“a” device is recited to perform all the operations), and has been added to claims 1 and 11 through amendment. Figs. 2 and 4a-c of Ho show a Data frame being transmitted by one device, and an Ack frame being transmitted by another device (see the first two sentences of each of paragraphs 0008 and 0010 in Ho). Thus Figs. 2 and 4a-c of Ho are not applicable to Applicants’ claims, as they only show a high-level view of two-way communications between two devices in a network, while Applicants’ claims are devoted to the one-way communication from (claims 1, 21, 40) or to (claims 11, 30, 46) a single device. Figs. 2 and 4a-c of Ho are not relevant to Applicants’ claims in the manner stated in the rejections, and should be withdrawn from the rejections.

The Office action further states that elimination of the IFS is not taught by Boer (page 31 line 14 of the Office action), while Oura and Lu were only cited for other limitations (specific modulation rate and computer readable medium). Thus, none of the cited references disclose or suggest a preamble in a second PDU without a preceding IFS. Withdrawal of the rejections under 35 USC 102 and 103 is respectfully requested.

The remaining pending claims all depend, directly or indirectly, from one of independent claims 1, 11, 21, 30, 40, and 46, and therefore contain the same limitations that are not disclosed or suggested by the cited references.

Claims 16, 35, and 51 have been objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants thank the Examiner for the indication of allowable subject matter, but believe such rewriting is unnecessary in view of the above observations.

### **Conclusion**

For the foregoing reasons, it is submitted that the application is in condition for allowance, and indication of allowance by the Examiner is respectfully requested. If the Examiner has any questions concerning this application, he or she is requested to telephone the undersigned at the telephone number shown below as soon as possible. If any fee insufficiency or overpayment is found, please charge any insufficiency or credit any overpayment to Deposit Account No. 50-0221.

Respectfully submitted,

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